

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Gabriella Carpenter	Team: Squad #13	CCRB Case #: 201606042	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 07/07/2016 8:00 PM	Location of Incident: [REDACTED]	Precinct: 52	18 Mo. SOL 1/7/2018	EO SOL 1/7/2018	
Date/Time CV Reported Wed, 07/13/2016 4:16 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/13/2016 4:16 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Joel Ayala	08262	954509	052 PCT
2. POM Edmundo Rivera	696	955382	052 PCT
3. LT Daniel Campbell	00000	932403	052 PCT
4. Officers			

Officer(s)	Allegation	Investigator Recommendation
A.POM Edmundo Rivera	Abuse: Outside of 2256 Walton Avenue in the Bronx, PO Edmundo Rivera frisked § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Edmundo Rivera	Abuse: Outside of 2256 Walton Avenue in the Bronx, PO Edmundo Rivera searched § 87(2)(b) [REDACTED]	[REDACTED]
C. Officers	Force: Outside of 2256 Walton Avenue in the Bronx, an officer struck § 87(2)(b) [REDACTED] with a flashlight.	[REDACTED]
D.POM Edmundo Rivera	Force: Outside of 2256 Walton Avenue in the Bronx, PO Edmundo Rivera used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Edmundo Rivera	Force: Outside of 2256 Walton Avenue in the Bronx, PO Edmundo Rivera used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
F.LT Daniel Campbell	Force: Outside of 2256 Walton Avenue in the Bronx, Lt. Daniel Campbell used a chokehold against § 87(2)(b) [REDACTED]	[REDACTED]
G.LT Daniel Campbell	Force: Outside of 2256 Walton Avenue in the Bronx, Lt. Campbell restricted § 87(2)(b) [REDACTED]'s breathing.	[REDACTED]
H.POM Joel Ayala	Force: Outside of 2256 Walton Avenue in the Bronx, PO Joel Ayala pointed his gun at § 87(2)(b) [REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
I.POM Joel Ayala	Discourtesy: Outside of 2256 Walton Avenue in the Bronx, PO Joel Ayala spoke discourteously to § 87(2)(b)	
J.POM Joel Ayala	Abuse: Outside of 2256 Walton Avenue in the Bronx, PO Joel Ayala threatened § 87(2)(b) with the use of force.	
K.POM Joel Ayala	Abuse: At the 52nd Precinct stationhouse, PO Joel Ayala did not obtain medical treatment for § 87(2)(b)	
L.POM Edmundo Rivera	Abuse: At the 52nd Precinct stationhouse, PO Edmundo Rivera did not obtain medical treatment for § 87(2)(b)	
M.LT Daniel Campbell	Abuse: At the 52nd Precinct stationhouse, Lt. Daniel Campbell did not obtain medical treatment for § 87(2)(b)	
N.POM Joel Ayala	Abuse: At the 52nd Precinct stationhouse, PO Joel Ayala refused to provide his name and shield number to § 87(2)(b)	
O.POM Edmundo Rivera	Abuse: At the 52nd Precinct stationhouse, PO Edmundo Rivera refused to provide his name to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed a complaint with the CCRB by phone on July 13, 2016 on behalf of her sons, § 87(2)(b) and § 87(2)(b).

On July 7, 2016, at approximately 8:00 p.m., in front of 2256 Walton Avenue in the Bronx, PO Joel Ayala, PO Edmundo Rivera, and Lt. Daniel Campbell of the 52nd Precinct stopped the car occupied by § 87(2)(b) and § 87(2)(b) because § 87(2)(b) failed to signal a left turn onto Walton Avenue. PO Rivera frisked and searched § 87(2)(b) (**allegations A and B**), then handcuffed one of his hands. Either Lt. Campbell or PO Rivera hit § 87(2)(b) with a flashlight multiple times on his back, chest, and head (**allegation C**) and PO Rivera punched § 87(2)(b)'s head several times (**allegation D**). Either PO Rivera or Lt. Campbell bent § 87(2)(b)'s finger back (**allegation E**). Lt. Campbell then tried to bring § 87(2)(b) to the ground with his forearm around § 87(2)(b)'s neck, restricting his breathing (**allegations F and G**). During the struggle, PO Ayala pointed his gun at § 87(2)(b) and said, "Stay the fuck in the car or you'll get shot" (**allegations H through J**).

After a few minutes, § 87(2)(b) stopped struggling and allowed PO Rivera and Lt. Campbell to put the other cuff on his left hand. Backup officers who had arrived on the scene took § 87(2)(b) and § 87(2)(b) out of the car and placed them under arrest. The three civilians were then transported to the 52nd Precinct stationhouse. On the way to the stationhouse and once there, § 87(2)(b) asked PO Ayala, PO Rivera, and Lt. Campbell for medical attention more than ten times, but each time the officer refused or ignored him (**allegations K through M**). At the stationhouse, § 87(2)(b) asked PO Ayala for his name and shield number but PO Ayala gave an incorrect name and would not provide his shield number (**allegation N**). § 87(2)(b) asked PO Rivera for his name, but PO Rivera ignored him (**allegation O**).

§ 87(2)(b) and § 87(2)(b) were each charged with § 87(2)(b).

§ 87(2)(b) and § 87(2)(b) both denied having knowledge of there being a gun in § 87(2)(b)'s car. According to the arrest reports, the gun was found on § 87(2)(b).



201606042_1.avi



201606042_2.mp4

A surveillance video was taken by a camera at 2256 Walton Avenue operated by the management company, HG 2256 Walton Corp., but it is far away and a tree blocks the view of the incident. The embedded Snag It clips contain all of the footage provided by HG 2256 Walton Corp.

During the investigation of this complaint, an IAB referral was made as a result of § 87(2)(b) s and § 87(2)(b) s allegations of stolen property. An OCD referral was made as a result of § 87(2)(b) s and § 87(2)(b) s allegations of questioning without a lawyer and refusal to allow a phone call after arrest.

Mediation, Civil and Criminal Histories

- § 87(2)(b)
- § 87(2)(b)
- As of September 26, 2016, a search of Office of Court Administration records yielded negative results for criminal convictions for § 87(2)(b)
- On August 19, 2016, § 87(2)(b) was released on his own recognizance for the charges pertaining to this incident, and his charges were returned to the lower court. The next court date is § 87(2)(b).
- As of September 26, 2016, § 87(2)(b) s and § 87(2)(b) s charges arising from this incident are still open (Board Review 03). The next court date is § 87(2)(b).
- As of September 23, 2016, no civilians have filed a Notice of Claim with respect to this incident (Board Review 04).
- Mediation was not offered as the victims were arrested.

Civilian and Officer CCRB Histories

- This is the first complaint filed by § 87(2)(b) § 87(2)(b)
This is the first complaint involving § 87(2)(b) and § 87(2)(b)
- PO Rivera has been a member of the service for three years and has had twelve other CCRB allegations pled against him in six cases, none of which were substantiated. § 87(2)(g):
 - Three allegations of physical force were pled against him, one in CCRB 201502304 that was exonerated, and two in CCRB 201605007 which is still open.
- PO Ayala has been a member of service for three years and has had eight other CCRB allegations pled against him in three cases, none of which were substantiated. § 87(2)(g):
 - One allegation of discourtesy (word) was pled against him in CCRB 201509724 that was closed as victim uncooperative.
 - One vehicle stop allegation was pled against him in CCRB 201603445 that was exonerated.

- Two allegations of physical force were pled against him in CCRB 201605007 which is still open.
- Lt. Campbell has been a member of service for thirteen years and has had fifty-seven other CCRB allegations pled against him in twenty cases which include the following: In CCRB 200607138, the Board substantiated and recommended charges for a threat of arrest allegation, and the NYPD declined to prosecute. In CCRB 201004296, the Board substantiated and recommended charges for a frisk allegation, and the NYPD disposition was command discipline B. § 87(2)(g)
- Eight allegations of physical force were pled against him, one in each CCRB 200615942 and CCRB 201214464 that were closed as complainant unavailable; one in CCRB 200902528 that was exonerated; one in CCRB 201006514 that was closed as complainant uncooperative; one in each CCRB 201007740, CCRB 20103431, and CCRB 201205357 that were unsubstantiated; and one in CCRB 201205357 that was unfounded.
- Five search allegations were pled against him, one in CCRB 200902528 that was exonerated; one in each CCRB 201002245 and CCRB 201200877 that were closed as complainant uncooperative; one in CCRB 201004296 that was unsubstantiated; and one in CCRB 201214464 that was closed as complainant unavailable.

Potential Issues

- § 87(2)(b) identified two witnesses with video footage, § 87(2)(b) and § 87(2)(b). When contacted, both witnesses confirmed that they had video footage and agreed to send it, but never did. § 87(2)(b) missed her first appointment, then decided not to participate in the investigation. Contact attempts were exhausted for § 87(2)(b).
- The only number found for § 87(2)(b) was the number for a temporary phone that was reassigned to another customer. Three letters were mailed to § 87(2)(b) but as of September 27, 2016, they have elicited no response.

Findings and Recommendations

Allegations not pleaded

- **Abuse of Authority:** A vehicle stop was not pleaded because § 87(2)(b) was summonsed for an illegal left turn.
- **Discourtesy:** An allegation of discourtesy is not pleaded because § 87(2)(b) stated that no officers used profanity towards her in the stationhouse after § 87(2)(b) testified that PO Rivera told § 87(2)(b) “I’m not telling you guys shit.”

Allegation A – Abuse of Authority: Outside of 2256 Walton Avenue in the Bronx, PO Edmundo Rivera frisked § 87(2)(b)

It is undisputed that PO Rivera, PO Ayala, and Lt. Campbell stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants and that, after speaking with the civilians for a few minutes, PO Rivera ordered § 87(2)(b) to step out of the car. However, what happened after § 87(2)(b) stepped out of the car is in question. § 87(2)(b) testified that the officers told him they had been stopped because § 87(2)(b) failed to signal a left turn (Board Review 05). After discussing the traffic infraction, PO Rivera opened § 87(2)(b)'s door, grabbed his arm, and began pulling him out of the car. PO Rivera then searched his two front pockets, but did not frisk him. § 87(2)(b) testified that he did not have a gun and was not sure where the officers found it.

§ 87(2)(b) testified that he was not told that they were stopped for failing to signal a left turn until he spoke to his lawyer at Bronx Central Booking (Board Review 06 and Board Review 07). He did not believe § 87(2)(b) had ever turned left during the drive. PO Rivera asked § 87(2)(b) to stop out of the car and he complied. After PO Rivera ordered § 87(2)(b) to step out of the car, he observed PO Rivera frisk § 87(2)(b) from his chest to his feet. § 87(2)(b) did not have a gun and had no knowledge of anyone in the car having a gun.

§ 87(2)(b) and § 87(2)(b) were not outside when the officers pulled § 87(2)(b) over or when PO Rivera frisked § 87(2)(b) (Board Review 08 and Board Review 09).

PO Rivera testified that PO Ayala saw § 87(2)(b) fail to signal at East 183rd and Walton Avenue, and pulled the car over (Board Review 10). PO Rivera approached the passenger side window next to § 87(2)(b) and he observed a bulge in § 87(2)(b)'s waistband in the shape of an “L” that was the approximate size of a gun, so he ordered § 87(2)(b) to step out of the car. He then frisked § 87(2)(b)'s waistband only where he observed the bulge, and felt a hard metal object. During the struggle, a gun fell out of § 87(2)(b)'s left pant leg.

Lt. Campbell testified that PO Ayala told him and PO Rivera that § 87(2)(b) failed to signal a turn onto Walton Avenue, and decided to pull the car over (Board Review 11). While approaching the car, Lt. Campbell observed § 87(2)(b) moving around and adjusting his waistband. Lt. Campbell further testified, while he was standing at the rear passenger window, that he observed a bulge about six inches across in § 87(2)(b)'s waistband while § 87(2)(b) was seated in the car. While the officers were speaking to the civilians in the car, § 87(2)(b) continued to move around. After PO Rivera ordered § 87(2)(b) to step out of the car, Lt. Campbell observed PO Rivera frisk § 87(2)(b)'s waistband, but he could not recall whether PO Rivera frisked any other parts of his body. Lt. Campbell, who assisted PO Rivera in detaining § 87(2)(b) corroborated PO Rivera's statement that a gun fell out of § 87(2)(b)'s pant leg during the struggle.

PO Ayala testified that he saw § 87(2)(b) fail to signal a left turn from 183rd Street onto Walton Avenue (Board Review 12). He then spoke to PO Rivera and Lt. Campbell about what he had seen, and they agreed that § 87(2)(b) failed to signal. After pulling the car over, he observed movement in the car as he approached, but he could not tell what the passengers were doing. While standing at the driver's window, he observed a large bulge in § 87(2)(b)'s waistband while § 87(2)(b) was seated in the passenger seat, though he could not see the

outline of a specific weapon. He could not describe the bulge further. PO Ayala could not clearly see the frisk. PO Ayala heard PO Rivera yell that there was a gun during the struggle, but given his position on the other side of the car, he could not see the gun fall out of § 87(2)(b)'s pant leg.

On the arrest reports for § 87(2)(b) and § 87(2)(b) PO Ayala stated that the defendants were found in possession of a loaded .380 caliber Taurus pistol (Board Review 13). PO Ayala's memo book states that the gun was recovered from § 87(2)(b) (Board Review 14). PO Rivera's memo book states that a gun was recovered from defendant's left pant leg (Board Review 15). A Taurus pistol, cartridges, and a magazine were vouchered (Board Review 16).

§ 87(2)(g)

An officer must have reasonable suspicion that he/she is in danger by virtue of the individual being armed in order to frisk that individual. The location of the bulge is noteworthy because unlike a pocket bulge which could be caused by any number of innocuous objects, a waistband bulge is a telltale sign of a weapon. People v. DeBour, 40 N.Y.2d 210 (1976).

§ 87(2)(g)

Allegation B – Abuse of Authority: Outside of 2256 Walton Avenue in the Bronx, PO Edmundo Rivera searched § 87(2)(b)

§ 87(2)(b) testified that, after being ordered out of the car, PO Rivera searched the two front pockets of his cargo shorts and removed the phone and keys from his right front pocket. When PO Rivera moved to search § 87(2)(b)'s bottom pockets, § 87(2)(b) told him that he had marijuana in his pocket, and PO Rivera removed it and placed it on top of the car.

§ 87(2)(b) initially corroborated § 87(2)(b)'s testimony, with the distinction that he observed both PO Rivera and Lt. Campbell search § 87(2)(b)'s pockets and pull out his keys. § 87(2)(b) later testified that PO Rivera frisked but did not search § 87(2)(b) and Lt. Campbell did not touch § 87(2)(b) before the struggle began.

§ 87(2)(b) and § 87(2)(b) were not present for this allegation.

PO Rivera testified that, when the officers first approached the car, one of the civilians told the officers that they had been smoking marijuana, and PO Rivera could smell marijuana but could not specify whether the odor was that of burning or unburned marijuana. PO Rivera also observed a small bag of marijuana in the center console of the car. PO Rivera testified that after § 87(2)(b) stepped out of the car, he did not enter any of § 87(2)(b)'s pockets, and that immediately after frisking § 87(2)(b) and feeling the gun, he put a handcuff on § 87(2)(b)'s left hand and the struggle began.

Lt. Campbell testified that he did not notice any particular odors emanating from the car, and he could not recall whether PO Rivera entered any of § 87(2)(b)'s pockets. He did not touch § 87(2)(b) until the struggle began.

PO Ayala testified that § 87(2)(b) told the officers they had just been smoking, but he did not specify whether they had been smoking marijuana or tobacco. PO Ayala smelled burning and unburned marijuana before § 87(2)(b) was asked to stop out of the car. He did not know whether PO Rivera entered any of § 87(2)(b)'s pockets as he did not have a clear vantage point from the other side of the car. PO Ayala wrote in his memo book that a bag of marijuana was recovered from § 87(2)(b)'s front left pants pocket, but could not recall during his interview whether the marijuana was recovered on the scene or at the stationhouse.

§ 87(2)(g)

The smell of marihuana smoke, with nothing more, can be sufficient to provide police officers with probable cause to search an automobile and its occupants. People v. Chestnut, 43 A.D.2d 260 (1974).

§ 87(2)(g)

Allegation C – Force: Outside of 2256 Walton Avenue in the Bronx, an officer struck § 87(2)(b) with a flashlight.

It is undisputed that there was a struggle after § 87(2)(b) was frisked, but the force used by officers is in question. § 87(2)(b) testified that one of the officers hit him with a flashlight on his head, chest, and back, but that he could not see which officer was hitting him because the officer was behind him. He stated that, while at the stationhouse, Lt. Campbell told him that he had been the one to strike § 87(2)(b) with the flashlight, and that § 87(2)(b) PO Rivera, and PO Ayala heard the conversation. § 87(2)(b)'s head was bleeding after the incident as a result of the blows from the flashlight.

§ 87(2)(b) PO Ayala, and PO Rivera each stated that they did not hear § 87(2)(b) talk to an officer about striking him with a flashlight, and Lt. Campbell denied having this conversation with § 87(2)(b).

§ 87(2)(b) originally stated that he saw either PO Rivera or Lt. Campbell strike § 87(2)(b) with a flashlight. In his sworn statement, § 87(2)(b) testified that he saw Lt. Campbell strike § 87(2)(b) with a flashlight on his back.

§ 87(2)(b) stated that he saw PO Rivera strike § 87(2)(b) with a flashlight.

§ 87(2)(b) did not testify to this allegation.

The command log states that § 87(2)(b) was apparently normal when brought back to the stationhouse, and that he did not request medical attention (Board Review 17). § 87(2)(b)'s arrest report, filed by PO Ayala, states that his physical condition was apparently normal. § 87(2)(b) has no visible injuries in his arrest photo (Board Review 18). § 87(2)(g)

§ 87(2)(b)

As § 87(2)(b) missed his scheduled interviews, he did not sign HIPAA forms and no documentation could be requested directly from § 87(2)(b).

As the surveillance video of the incident is from a distance and is blocked by a tree, it does not clearly show whether an officer struck § 87(2)(b) with a flashlight.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation D – Force: Outside of 2256 Walton Avenue in the Bronx, PO Edmundo Rivera used physical force against § 87(2)(b)

It is undisputed that there was a struggle after § 87(2)(b) was frisked, but the force used by officers is in question. § 87(2)(b) testified that Lt. Campbell and PO Rivera pinned § 87(2)(b) against the car and attempted to handcuff him, then PO Rivera held § 87(2)(b)'s arms behind his back and punched him on his head multiple times.

§ 87(2)(b) testified that § 87(2)(b) was on the ground when she arrived on the scene, and while he was on the ground one of the officers hit § 87(2)(b) twice with his hands. She stated that the officer did not exactly punch § 87(2)(b) but she could not describe more specifically what the officer did. She saw only two officers and provided only vague descriptions. The officer she observed hit § 87(2)(b) was the taller of the two officers near him. As Lt. Campbell is four inches taller than PO Rivera, the investigation has determined by a preponderance of the evidence that § 87(2)(b) observed Lt. Campbell hit § 87(2)(b). She did not testify to PO Rivera hitting § 87(2)(b).

Neither § 87(2)(b) the alleged victim, nor § 87(2)(b) a witness, testified that § 87(2)(b) was punched during the struggle.

PO Rivera testified that he put one handcuff on § 87(2)(b)'s left hand, but § 87(2)(b) began screaming for help, twisting his body, and reaching his right hand into his waistband before PO Rivera could put the other cuff on him. § 87(2)(b) tried to get away from the vehicle so PO Rivera grabbed his right arm and tried to bring him to the ground. He never punched § 87(2)(b) or observed another officer punch § 87(2)(b).

Lt. Campbell stated PO Rivera wrestled with § 87(2)(b) against the car while trying to get handcuffs on him, but he could not specifically describe how PO Rivera was touching § 87(2)(b). He was unsure of whether he himself punched § 87(2)(b) during the struggle, but he did not think that he did, and he did not see PO Rivera punch § 87(2)(b) during the struggle.

PO Ayala testified that he never observed another officer punch § 87(2)(b) but he could not see the struggle well from his position on the driver's side of the car.

§ 87(2)(g)

Allegation E – Force: Outside of 2256 Walton Avenue in the Bronx, PO Edmundo Rivera used physical force against § 87(2)(b)

§ 87(2)(b) testified that one of the officers bent his finger back during the struggle, resulting in a fracture, but that he could not see which officer it was because the officer was behind him. Given that he could see PO Ayala and Lt. Campbell when the officer was bending his finger, § 87(2)(b) thought that PO Rivera bent it. After being taken to Bronx Central Booking, § 87(2)(b) was treated for a fractured finger at § 87(2)(b).

In his phone statement, § 87(2)(b) stated that he observed either PO Rivera or Lt. Campbell bend § 87(2)(b)'s finger, but during a sworn statement, § 87(2)(b) testified that he did not know what the officers did to bend it or which officer was responsible.

§ 87(2)(b) stated that an officer he could not describe bent § 87(2)(b)'s finger back. § 87(2)(b) described PO Rivera, but could not describe PO Ayala or Lt. Campbell. The officer he saw bend § 87(2)(b)'s finger was the other officer – in addition to PO Rivera – who was standing on the passenger side of the car. From the other officer and civilian statements, the investigation has determined that Lt. Campbell was standing with PO Rivera on the passenger side and PO Ayala was standing on the driver's side. The investigation has established by a preponderance of the evidence that the officer who § 87(2)(b) saw bend § 87(2)(b)'s finger was Lt. Campbell.

§ 87(2)(b) did not testify to an officer bending § 87(2)(b)'s finger.

PO Rivera, PO Ayala, and Lt. Campbell each denied bending § 87(2)(b)'s finger or seeing another officer bend his finger.

§ 87(2)(g)

§ 87(2)(g)

Allegation F – Force: Outside of 2256 Walton Avenue in the Bronx, Lt. Daniel Campbell used a chokehold against § 87(2)(b)

Allegation G – Force: Outside of 2256 Walton Avenue in the Bronx, Lt. Daniel Campbell restricted § 87(2)(b)'s breathing.

§ 87(2)(b) testified that, during the struggle, one of the officers was hitting him with a flashlight and he was trying to shield his face when Lt. Campbell put his forearm around

his neck for a few minutes from behind. While Lt. Campbell's forearm was on his neck, § 87(2)(b)'s breathing was restricted and he went in and out of consciousness before finally giving up and allowing the officers to handcuff him.

In his initial statement, § 87(2)(b) did not mention seeing an officer put § 87(2)(b) in a hold that could have restricted his breathing. In his sworn statement, § 87(2)(b) first testified that he did not see any officers put § 87(2)(b) in a hold that could have restricted his breathing, then testified that Lt. Campbell put his arms around § 87(2)(b)'s neck from behind when trying to bring him to the ground. He could not describe the hold further.

§ 87(2)(b) testified that § 87(2)(b) tried to get off the ground, so the taller of the two officers put him into a headlock with his hands and held him against the car. She could not describe more specifically how the officer touched § 87(2)(b). As Lt. Campbell is taller than PO Rivera, the investigation credits that § 87(2)(b) saw Lt. Campbell put § 87(2)(b) into a headlock.

§ 87(2)(b) did not describe officers putting § 87(2)(b) in a hold that could have restricted his breathing.

Lt. Campbell testified that § 87(2)(b) was trying to escape and reach his hand into his waistband where Lt. Campbell believed a gun to be. § 87(2)(b) ran away from PO Rivera towards the back of the car, and in doing so, he ran directly into Lt. Campbell. Lt. Campbell put § 87(2)(b) into a headlock from the side and tried to bring him to the ground. While § 87(2)(b) was in a headlock, Lt. Campbell's right forearm was around § 87(2)(b)'s head at ear-level. Lt. Campbell stated that he never touched § 87(2)(b)'s neck, or heard § 87(2)(b) complain about his breathing being restricted.

PO Rivera testified that he never saw Lt. Campbell put § 87(2)(b) in a hold that could have restricted his breathing.

PO Ayala testified that he could not see the struggle as he was focused on the civilians inside the car.

As the surveillance camera is blocked by a tree, it does not show whether Lt. Campbell placed § 87(2)(b) in a chokehold or another hold that could have restricted his breathing.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation H – Force: Outside of 2256 Walton Avenue in the Bronx, PO Joel Ayala pointed his gun at § 87(2)(b)

Allegation I – Discourtesy: Outside of 2256 Walton Avenue in the Bronx, PO Joel Ayala spoke discourteously to § 87(2)(b)

Allegation J – Abuse of Authority: Outside of 2256 Walton Avenue in the Bronx, PO Joel Ayala threatened § 87(2)(b) with the use of force.

It is undisputed that § 87(2)(b) tried to get out of the car while PO Rivera and Lt. Campbell were struggling with § 87(2)(b) but the officers' efforts to stop him are in question. While in his phone statement § 87(2)(b) testified that PO Ayala pointed his gun

at him without saying anything, he testified in his sworn statement that PO Ayala told § 87(2)(b) to, “Stay the fuck in the car or you’ll get shot,” and did not draw or point his gun when § 87(2)(b) tried to open the car door.

§ 87(2)(b) and § 87(2)(b) did not testify to hearing an officer threaten § 87(2)(b) or point a gun at him.

PO Ayala testified that he told § 87(2)(b) several times to stay in the car while PO Rivera and Lt. Campbell were struggling with § 87(2)(b) and that § 87(2)(b) tried to open the door to get out of the car then § 87(2)(b) immediately closed it. § 87(2)(b) told PO Ayala that § 87(2)(b) was his brother and said, “I got something for you. Wait ‘til I get out of the vehicle.” PO Ayala could not recall the specific language he used to tell § 87(2)(b) to stay in the car, or whether he told a civilian to, “Stay the fuck in the car or you’ll get shot.” PO Ayala did not point his gun during the incident.

PO Campbell and PO Rivera each testified that they did not hear an officer say “Stay the fuck in the car or you’ll get shot,” or anything similar, or see an officer point a gun.

§ 87(2)(g)

Allegation K – At the 52nd Precinct stationhouse, PO Joel Ayala did not obtain medical treatment for § 87(2)(b)

Allegation L – At the 52nd Precinct stationhouse, PO Edmundo Rivera did not obtain medical treatment for § 87(2)(b)

Allegation M – At the 52nd Precinct stationhouse, Lt. Daniel Campbell did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) testified that the top of his head was bleeding and his finger was fractured after the struggle. He asked PO Rivera and PO Ayala for medical attention while they were driving him to the stationhouse but the officers ignored him. At the stationhouse, § 87(2)(b) asked Lt. Campbell for medical attention approximately five times but was ignored. After he was taken to Bronx Central Booking, he received medical treatment at § 87(2)(b) for his bleeding head and fractured finger.

§ 87(2)(b) was not in the car with § 87(2)(b) when PO Rivera and PO Ayala allegedly first refused to get § 87(2)(b) medical treatment, but § 87(2)(b) testified that § 87(2)(b) asked PO Ayala, PO Rivera, and Lt. Campbell for medical attention as soon as they arrived at the stationhouse. Every time an officer walked by the holding cell, § 87(2)(b) would ask the officer for medical attention; some of the officers agreed to get § 87(2)(b) medical attention but never did, and some ignored him. In total, § 87(2)(b) heard § 87(2)(b) ask for medical attention more than ten times. After arriving at Bronx Central Booking, § 87(2)(b) requested medical attention again and was taken to the hospital for his fractured finger. § 87(2)(b) testified that § 87(2)(b) had bruises on his back, scratches on his chest, and that his finger was swollen. He did not testify that § 87(2)(b) s head was bleeding.

§ 87(2)(b) and § 87(2)(b) not present for these allegations.

Lt. Campbell testified that § 87(2)(b) did not have any visible injuries after the incident, nor did he hear § 87(2)(b) complain of any injuries or ask for medical treatment.

He was not present when § 87(2)(b) was asked by the desk sergeant whether he wanted medical treatment.

PO Rivera testified that he did not hear § 87(2)(b) ask for medical treatment at any point.

PO Ayala testified that he asked each of the civilians if they needed medical treatment while filling out the arrest paperwork, and each refused.

The command log states that § 87(2)(b) was apparently normal when brought back to the stationhouse, and that he did not request medical attention. § 87(2)(b)'s arrest report, filed by PO Ayala, states that his physical condition was apparently normal. § 87(2)(b) has no visible injuries in his arrest photo. No Medical Treatment of Prisoner Report was found for § 87(2)(b) at the 52nd Precinct or the Bronx Court Section. As § 87(2)(b) missed his scheduled interviews, he did not sign HIPAA forms and no documentation could be requested directly from § 87(2)(b).

§ 87(2)(g)

Allegation N – Abuse of Authority: At the 52nd Precinct stationhouse, PO Joel Ayala refused to provide his name and shield number to § 87(2)(b)

Allegation O – Abuse of Authority: At the 52nd Precinct stationhouse, PO Edmundo Rivera refused to provide his name to § 87(2)(b)

§ 87(2)(b) testified that he asked PO Ayala for his name and shield number while he was preparing the arrest report, and PO Ayala responded that his name was PO Odally but would not give his shield number. He did not testify to § 87(2)(b) asking PO Rivera for his name.

§ 87(2)(b) testified that he asked PO Rivera for his name just after arriving at the stationhouse but PO Rivera ignored him. He did not testify to § 87(2)(b) asking PO Ayala for his name.

§ 87(2)(b) and § 87(2)(b) did not testify to either allegation.

PO Ayala testified that § 87(2)(b) and § 87(2)(b) each asked for his name and shield number at the stationhouse, and he gave them the information. He did not hear any of the civilians ask Lt. Campbell or PO Rivera for their names during or after the incident.

Lt. Campbell and PO Rivera testified that they did not hear any of the civilians ask any officers for their names or shield numbers during or after the incident.

§ 87(2)(g)

Investigator: _____

Squad Leader: _____

Reviewer: _____